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Central Towing & Transport, LLC
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**
11

12 WILLIAM J. WHITSITT,

13 Plaintiff,

14 v.
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16 WHEATFALL, et al.
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18 Defendants.
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) Case Number: C-08-2139-JSW

) Related Cases: C 08-01802 JSW
) C 08-01803
) C 08-02138

) **DEFENDANT CENTRAL TOWING &**
) **TRANSPORT, LLC'S RE- NOTICE**
) **OF MOTION TO DISMISS**

) [FRCP 12(b)(6); 28 U.S.C. §1915(e)]

) **Hearing Date: September 5, 2008**
) **Time: 9:00 a.m.**
) **The Honorable Jeffrey S. White**
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21 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

22 NOTICE IS HEREBY GIVEN that defendant Central Towing & Transport, LLC's
23 motion to dismiss this action pursuant to *FRCP 12(b)(6)* and *28 U.S.C. §1915(e)*, originally
24 scheduled for August 13, 2008, at 10:00 a.m., is now set for **September 5, 2008 at 9:00 a.m.**
25 before the Honorable Jeffrey S. White.

26 The Motion is made on the grounds that the complaint fails to state a claim on which a
27 relief may be granted and that the action is frivolous. Central Towing & Transport, LLC
28 ("Central Towing") requests that the Court dismiss the action and award costs of suit to Central

1 Towing pursuant to 28 U.S.C. §1915(f)(1).

2 The motion will be based upon this notice, the Memorandum of Points and Authorities
3 and Declarations of Tim Poole and Nicole Schaa previously filed, all pleadings and documents
4 on file herein, and upon such oral and documentary evidence as may be presented at or before the
5 hearing on this Motion.

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7 Dated: July 22, 2008

TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP.

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9 By: 

10 Bruce D. M. Prescott
11 Daphne C. Lin
12 Attorneys for Defendant
13 Central Towing & Transport, LLC
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DECLARATION OF SERVICE

William J. Whitsitt v. Lytle, et al.
Case Number C-08-01802-JSW

I, Jenny Houston, declare and say:

I am over the age of eighteen years and not a party to the within action. My business address is 2201 Walnut Avenue, Suite 200, Fremont, California, 94538.

On July 22, 2008, I caused to be served the following documents described as:

DEFENDANT CENTRAL TOWING & TRANSPORT, LLC'S RE-NOTICE OF MOTION TO DISMISS

on the interested parties in this action by placing a true and correct copy thereof in a sealed envelope addressed as follows:

**William J. Whitsitt
335 West Clover Road
Tracy, California 95376**

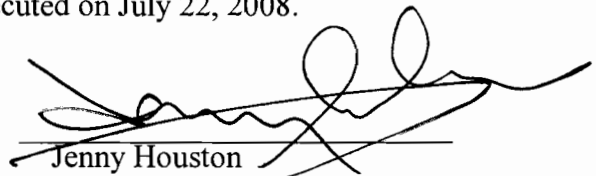
— (by personal service): I caused such envelope to be delivered by hand to the above address(es).

— (by facsimile): I caused the above-referenced document(s) to be transmitted to the above-named persons at each of their respective facsimile numbers listed above, a copy of which is attached hereto.

— (by overnight courier): I caused the above-referenced document(s) to be delivered to an overnight courier service for delivery to the above address(es).

XX (by mail): I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in the affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed on July 22, 2008.


Jenny Houston